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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA – Western Division

JEFFREY COOPER,
 Plaintiff,
 v.
 STATE FARM GENERAL
 INSURANCE COMPANY and DOES
 1 through 25, inclusive,
 Defendants.

Case No. CV 23-9688-GW-JPRx)
 [LASC Case No.: 23SMCV04689]
 Complaint Filed: October 3, 2023

**ORDER GRANTING THE PARTIES’
 STIPULATION TO REMAND TO
 STATE COURT**

District Judge George H. Wu
 Magistrate Judge Jean P. Rosenbluth

The Court, having read and considered the parties’ Stipulation to Remand,
 hereby ORDERS as follows:

I. BACKGROUND

On October 3, 2023, Plaintiff JEFFREY COOPER (“Plaintiff”) filed a
 Complaint for breach of duty of good faith and fair dealing, breach of contractual
 duty to pay a covered claim, and financial elder abuse against Defendant State Farm
 General Insurance Company (“State Farm”) in the Superior Court for the State of
 California, Couty of Los Angeles, Case No. 23SMCV04689. Plaintiff’s Complaint
 concerns allegations of contractual and extra-contractual damages related to policy
 benefits arising from an incident that occurred on or about March 19, 2019, at

1 Plaintiff's residence located at 6015 Galahad Road, Malibu, California 90265. On
2 November 15, 2023, State Farm timely removed this matter to the United States
3 District Court for the Central District of California pursuant to 28 U.S.C. §§ 1332,
4 and 1441.

5 On December 21, 2023, Plaintiff filed a First Amended Complaint and an
6 Amendment to Complaint Naming Doe 1 as Defendant Vernon Roske ("Roske"), a
7 State Farm claims adjuster. The First Amended Complaint alleges causes of action
8 for breach of verbal contract, negligence, and financial elder abuse against Vernon
9 Roske based on Roske's handling of the claim. The parties agree that, as pled, the
10 First Amended Complaint does not contain a cognizable legal theory against Roske,
11 subjecting Roske to dismissal from the First Amended Complaint with prejudice as
12 to the alleged causes of action. Plaintiff intends on filing an amendment adding a
13 cause of action for negligent misrepresentation against Roske and seeking remand to
14 state court. Because such a claim is legally conceivable against an insurance adjuster
15 and the factual allegations of the complaint taken as true would make Roske a proper
16 defendant, the parties agree that complete diversity will no longer exist in this matter,
17 and that subject matter jurisdiction will no longer exist.

18 Accordingly, the parties request an order from this Court dismissing Roske
19 from the First Amended Complaint and remanding the case to the Los Angeles
20 County Superior Court of California, Case No. 23SMCV04689. The parties have
21 agreed that with such remand, Plaintiff will not add Vernon Roske, or any State
22 Farm agent, adjuster, team manager, or other representative or employee as a
23 defendant in this action. The parties have further agreed that State Farm will not
24 attempt to remove the matter to federal court a second time.

25 **II. ANALYSIS**

26 United States Code, Title 28, Section 1447(c), provides that "[i]f at any time
27 before final judgment it appears that the district court lacks subject matter
28 jurisdiction, the case *shall be remanded*." (Emphasis added). Because complete

diversity will no longer exist, this Court lacks subject matter jurisdiction and must, therefore, remand the case to state court pursuant to 28 U.S.C. § 1447(c). *See Bruns v. NCUA* 122 F.3d 1251, 1257 (9th Cir. 1997) (“Section 1447(c) is mandatory, not discretionary.”)

III. ORDER OF THE COURT

Based on the foregoing, this Court ORDERS that:

1. Pursuant to the parties’ Stipulation, because the First Amended Complaint as pled does not allege a legally cognizable cause of action against Roske, Roske is dismissed from this action.

2. As complete diversity will no longer exist if Plaintiff files an amended complaint adding a negligent misrepresentation cause of action against Roske as intended, this Court will no longer have subject matter jurisdiction and this Litigation, Federal Case No. 2:23-cv-9688 GW-JPRx), is hereby remanded to the Superior Court for the State of California, County of Los Angeles, Case No. 23SMCV04689.

3. All pending dates in the Federal action are hereby vacated.

4. Plaintiff is not to name Vernon Roske, or any agent, adjuster, team manager, or other representative or employee of State Farm, as a defendant in this action or any action related to the rights and damages that are the subject of the First Amended Complaint.

5. This Order shall be accorded full force and effect in the Superior Court of the State of California, County of Los Angeles, Case No. 23SMCV04689.

IT IS SO ORDERED.

Dated: January 11, 2024



HON. GEORGE H. WU,
UNITED STATES DISTRICT JUDGE